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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/739,227	10/27/2003	Andrew J. Dosmann	MSE #2673	7335

7590 09/25/2006

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EXAMINER

AKANBI, ISIAKA O

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/739,227

Applicant(s)

DOSMANN ET AL.

Examiner

Isiaka O. Akanbi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 is/are allowed.
- 6) ☒ Claim(s) 24-31 is/are rejected.
- 7) ☒ Claim(s) 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>23 June 2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

The amendment file 23 June 2006 has been entered into this application.

Information Disclosure Statement

The information disclosure statement file 23 June 2006 has been entered and reference considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurandt (4,838,697).

Regarding to claim 24, Kurandt discloses a readhead comprising of a first LED (6/7/8) having a first center-wavelength associated therewith and being adapted to emit a first path of light, a beam splitter (9/10) positioned in the first path of light, a second LED (6/7/8) positioned relative to the first LED and the beam splitter and having a second center-wavelength associated therewith and being adapted to emit a second path of light intersecting the beam splitter, wherein the first and second paths of light interact with the beam splitter (9/10) forming a beam of illumination comprising light from the first LED and the second LED (fig. 1); and the readhead further comprising a face defining an exit aperture through which the beam passes, wherein the sample aperture is spaced from the face and positioned to be illuminated by the beam such that when the sample is located on the sample aperture, the sample will reflect at least a portion of the beam (col. 3, line 1-15), a detector (3) comprising an

active area and a detection aperture positioned to receive at least a portion of diffuse light resulting from the reflected beam (col. 2, line 53-63) and a light-scattering section (12) positioned upstream of the detector active area (fig. 1)(col. 3, line 1015). The reference of Kurandt is silent regarding wherein the light-scattering section comprises a plurality of steps defining one or more angles greater than 90 degrees and the section is positioned such that the steps are angled to reduce stray internal light on the detector active area because there is no reason for the light-scattering angle to be the same since it is known in the art that scattering is a change of the spatial distribution of a beam of radiation when it interacts with a surface. Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to provide/design light-scattering section that comprises a plurality of steps defining one or more angles greater than 90 degrees for the purpose providing sufficient illumination to create a sufficiently bright image with accuracy. Further it would have been obvious to one having ordinary skill in the art at the time of invention to provide/design the section that is positioned such that the steps are angled to reduce stray internal light on the detector active area for the purpose of providing a more accurate measurement.

As to claim 25, Kurandt discloses the claimed invention, as applied to claim 24. The reference of Kurandt teaches of the features of claim 25, comprising light-scattering section (12)(fig. 1), however the reference of Kurandt is silent regarding the wherein the one or more angles defined by the plurality of steps are approximately 100 degrees. It would have been obvious to one having ordinary skill in the art at the time of invention to provide/design one or more angles defined by the plurality of steps that are approximately 100 degrees for the purpose providing sufficient illumination to create a sufficiently bright image with accuracy.

Claims 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurandt (4,838,697) in view of Henderson et al. (3,910,701)

As to claims 26 and 28-31, Kurandt discloses everything claimed, as applied to claim 24 above. The reference of Kurandt teaches of the features of claim 26, comprising first and second LED that are both associated with bandwidth and tolerance (6/7/8)(fig. 1)(col. 2, line 59-60), a beamsplitter (9/10). The reference of Kurandt is silent regarding wherein the second center-wavelength is greater than the first center-wavelength and the filter has associated therewith a filter bandpass being relatively narrow compared to the first bandwidth and the

second bandwidth. The Henderson discloses variety of wavelengths (i.e. 100nm) and any selected narrow band (i.e. 25 nm)(col. 2, line 11-16)(col. 6, line 18-22). Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to provide the second center-wavelength that is greater than the first center-wavelength and provide the filter that is has associated therewith a filter bandpass that is relatively narrow compared to the first bandwidth and the second bandwidth because it provide easier way of selecting the wavelength of interest.

As to claim 27, Kurandt and Henderson discloses everything claimed, as applied to claim 26 above, in addition Kurandt discloses the beam splitter (9/10) comprising a bandpass filter having a filter center-wavelength and a filter tolerance associated therewith and the filter center-wavelength and filter tolerance are selected to separate wavelength associated with the first LED from wavelengths associated with second LED such that the light in the beam from the first LED does not have wavelengths equal to wavelengths of light in the beam from the second LED (fig. 1)(col. 2, line 64- col. 3, line 1-15).

Response to Arguments

Applicant's arguments/remarks, see pages 10-16, filed 23 June 2006, with respect to the rejection(s) of claim(s) 1-32 instead of 1-33 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made on claims 24-31.

Allowable Subject Matter

Claims 1-23 are allowed over the prior art of record.

As to claim 1, the prior art of record, taken alone or in combination, fails to disclose or render obvious the filter tolerance is no greater than approximately one-half the illumination tolerance and the filter center-wavelength is approximately within a range from about the illumination center-wavelength minus the illumination tolerance to about the illumination center-wavelength plus the illumination tolerance, in combination with the rest of the limitations of the claim. Claims 2-8 are allowable by virtue of their dependency.

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As to claims 9 and 14, the prior art of record, taken alone or in combination, fails to disclose or render obvious the bandpass filter comprises a relatively narrow bandpass as compared to a bandwidth associated with the first LED, in combination with the rest of the limitations of the claim. Claims 10-13 and 15-23 are allowable by virtue of their dependency.

Claims 32-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 32, the prior art of record, taken alone or in combination, fails to disclose or render obvious wherein the filter center-wavelength is less than approximately the first center-wavelength minus 20nm, in combination with the rest of the limitations of the claim. Claim 33 are allowable by virtue of its dependency.

Additional Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed in the attached form PTO-892 teach of other prior art illumination source readhead that may anticipate or obviate the claims of the applicant's invention.

Conclusion

Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isiaka Akanbi whose telephone number is (571) 272-8658. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

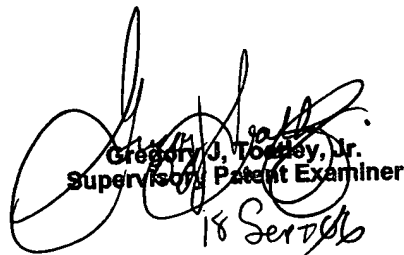
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley Jr. can be reached on (571) 272-2059. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isiaka Akanbi

September 17, 2006


Gregory J. Toppay, Jr.
Supervisory Patent Examiner
18 Sept 06